

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 03-12187-RWZ

PHYLLIS JOUVALAKAS, et al.

v.

ROY MINNEHAN, et al.

ORDER

July 26, 2005

ZOBEL, D.J.

After plaintiff Michael Frohock led several members of the Massachusetts State Police on a lengthy high speed chase, he crashed and they arrested him. In the Amended Complaint, he alleges that Roy Minnehan slammed his face into the ground and otherwise manhandled him even though he offered no resistance. Paul E. Sullivan allegedly stood by and failed to intervene. Steven Leary, a Major in the State Police, who allegedly failed to properly train Minnehan and Thomas Foley, in his capacity of Superintendent, is charged with failures of supervision and training as respects Minnehan. The parties have filed several motions.

Foley's Motion to Dismiss (#34 on the Court's docket)

Foley has moved to dismiss on Eleventh Amendment grounds insofar as he is sued in his official capacity and on qualified immunity grounds insofar as he is sued in his individual capacity. Plaintiff concedes that the Eleventh Amendment does bar the claims against him as an official. The motion is denied with respect to the individual claim. The amended complaint adequately states a claim of supervisory liability and is

therefore not subject to dismissal for qualified immunity.

Plaintiff's Second Motion to Compel Production of Documents by Keeper of
Records of Massachusetts State Police (#36)

Motion of Massachusetts State Police to Quash Subpoena (#41)

These motions address the same subject -- documents concerning prior disciplinary, civil, criminal and Internal Affairs proceedings against Minnehan. The Court had previously denied plaintiff's request for their production on relevance grounds. However, the Amended Complaint puts in issue the supervisory and training functions of Foley and, as to those claims, these records are relevant and perhaps probative. Accordingly, plaintiff's motion is allowed. The motion of the State Police is denied.

DATE

/s/ Rya W. Zobel
RYA W. ZOBEL
UNITED STATES DISTRICT JUDGE